

DAVIS COUNTY BOARD OF HEALTH REGULATION ON TANNING FACILITIES

Under Authority of Section 26a-1-114
Utah Code Annotated, 1998



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1.0 PURPOSE

- 1.1 The purpose of this regulation is to regulate and permit TANNING FACILITIES in Davis County in a manner that will protect the public's health, safety and welfare.

2.0 APPLICABLE LAWS AND REGULATIONS

- 2.1 TANNING FACILITIES are required to comply with the following applicable laws and regulations which are adopted by reference:
 - 2.1.1 21 Code of Federal Regulations (CFR) Part 801, Labeling;
 - 2.1.2 21 CFR, Subpart J, Radiological Health;
 - 2.1.3 21 CFR, Part 1010, Performance Standards for Electronic Products – General; and
 - 2.1.4 21 CFR § 1020.20, Sunlamp Products and Ultraviolet Lamps Intended for Use in sunlamp Products.

3.0 DEFINITIONS

- 3.1 DEPARTMENT – The Davis County Health Department.
- 3.2 DIRECTOR – The Director of the Davis County Health Department or his/her authorized representative.
- 3.3 OPERATOR – A TANNING FACILITY owner, or an agent of a TANNING FACILITY owner, or a person who operates a TANNING FACILITY.
- 3.4 TANNING DEVICE(S) – A device that emits electromagnetic radiation used to tan human skin, including a sunlamp, tanning booth, or tanning bed.
- 3.5 TANNING FACILITY – A business that provides access to or use of TANNING DEVICES.

4.0 EXEMPTIONS

- 4.1 These regulations do not apply to a phototherapy device used by or under the supervision of a medical provider licensed in the State of Utah.
- 4.2 Privately owned TANNING DEVICES used exclusively for personal use and no fee or other compensation is involved are exempt from these regulations.

5.0 PERMITTING OF TANNING FACILITIES

- 5.1 A person shall not operate a TANNING FACILITY without a current and valid permit issued by the DEPARTMENT. A separate permit is required for each TANNING FACILITY.
- 5.2 The permit shall be displayed in an open public area of the TANNING FACILITY.
- 5.3 Each OPERATOR shall, within ninety (90) days following the effective date of these regulations, apply to the DEPARTMENT for a permit to operate a TANNING FACILITY in Davis County.
- 5.4 Each person acquiring or establishing a TANNING FACILITY after the effective date of these regulations shall apply to the DEPARTMENT for a permit prior to beginning operation.
- 5.5 Unless the DEPARTMENT revokes or suspends a permit as provided in § 7.0, the initial permit shall be valid during the calendar year it is issued and shall expire on December 31 that year.
- 5.6 Permits are not transferable from one person to another or from one TANNING FACILITY to another.
- 5.7 Permit applications shall be completed on forms provided by the DEPARTMENT.

6.0 PERMIT FEES

- 6.1 All Tanning Facilities in Davis County shall pay a nonrefundable initial permit application fee as determined by the Board of Health.
- 6.2 All Tanning Facilities shall pay a nonrefundable annual renewal fee as determined by the Board of Health each year following issuance of the initial permit.

7.0 REVOCATION, CANCELLATION, AND SUSPENSION OF A PERMIT

- 7.1 The DEPARTMENT may revoke, cancel, or suspend a permit to operate a TANNING FACILITY if the facility has:
 - 7.1.1 Failed to pay a permit fee or an annual renewal fee;
 - 7.1.2 Obtained or attempted to obtain a permit by fraud or deception;
 - 7.1.3 Violated any of the provisions of these regulations.
- 7.2 Prior to revoking, canceling, or suspending a permit the DEPARTMENT shall give the OPERATOR written notice of the proposed action, including reasons and an opportunity for a hearing if a written request for such hearing is filed with the DEPARTMENT within ten (10) calendar days.
- 7.3 If the DEPARTMENT suspends a permit, the suspension shall remain in effect until the DEPARTMENT determines that the reason for suspension no longer exists.
- 7.4 If the DEPARTMENT revokes or does not renew a permit, a person may reapply for a permit by complying with the requirements and procedures of these regulations at the time of reapplication. However, an OPERATOR named in a revocation action is not eligible for permitting under these sections for a period of one year from the date of the revocation.

8.0 REPORT OF CHANGES

- 8.1 The OPERATOR shall notify the DEPARTMENT in writing within ten (10) days on any change, including a change in location, change of name, or Change of Ownership of a TANNING FACILITY, which would render the information contained in the permit application inaccurate.

9.0 ADVERTISING

- 9.1 No person, in any advertisement, shall refer to the fact that the TANNING FACILITY is permitted by the DEPARTMENT. No person shall state or imply that the DEPARTMENT has approved any activity under such permit.
- 9.2 A TANNING FACILITY shall not advertise, or distribute promotional materials that claim that using a TANNING DEVICE is safe or free from risk or that using the device will result in medical or health benefits. The only claims that may be made for tanning are cosmetic.
- 9.3 A TANNING FACILITY shall not advertise or distribute promotional materials that target school age children in grades K through 12 to use their facility, offer discounts to school age children, or promote the cosmetic benefits of a tanned look to enhanced social acceptance in any school related activity.

10.0 WARNING SIGNS

- 10.1 The OPERATOR shall post a warning sign, provided by the DEPARTMENT, in a conspicuous location where it is readily visible by persons entering the establishment.

WARNING ULTRAVIOLET RADIATION

1. Repeated exposure to ultraviolet radiation may cause chronic skin damage characterized by wrinkling, dryness, fragility, and bruising of the skin, and skin cancer. Failure to use protective eyewear may result in severe burns or permanent injury to the eyes.
2. Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight.
3. Pregnant women or women taking oral contraceptives who use this product may develop discolored skin.

- 10.2 The OPERATOR shall post a warning sign, provided by the DEPARTMENT (one sign for each TANNING DEVICE), in a conspicuous location that is readily visible to a person about to use the device.

WARNING

ULTRAVIOLET RADIATION

1. Follow the manufacturer's instructions for use of this device.
2. Avoid too frequent or lengthy exposure. As with natural sunlight, exposure can cause serious eye and skin injuries. Repeated exposure may cause skin cancer.
3. Wear protective eyewear. Failure to use protective eyewear may result in severe burns or permanent damage to the eyes.
4. Do not sunbathe before or after exposure to ultraviolet radiation from sunlamps.

- 10.3 TANNING FACILITIES that have on display warning signs in the facility and or on a TANNING DEVICE that is provided by the facility or the device manufacturer that has wording and meaning equivalent to that required in 10.1 and 10.2 shall meet the requirement of this regulation.

- 10.4 Compliance with these notice requirements does not affect the liability of a TANNING FACILITY OPERATOR.

11.0 TANNING DEVICES

- 11.1 Only TANNING DEVICES manufactured and certified to comply with 21 CFR, Part 1040, § 1040.20, "Sunlamp products and Ultraviolet Lamps Intended for Use in Sunlamp Products", shall be in Tanning Facilities. TANNING DEVICES must also comply with the medical device labeling requirements of 21 CFR, Part 801.
- 11.2 All TANNING DEVICES shall have a timer, which complies with the requirements of 21 CFR, Part 1040, § 1040.20(c)(2). The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time.
- 11.3 The OPERATOR shall limit the exposure time of a customer on a TANNING DEVICE to the maximum exposure time recommended by the manufacturer.

- 11.4 TANNING DEVICE remote timers shall be installed and located so the customer may not set or reset the customer's own exposure time. Remote timer systems must comply with the requirements for timers as provided in subsection (11.2) of this section.
- 11.5 No OPERATOR shall sell, or provide the user of a TANNING DEVICE, tokens required to operate the TANNING DEVICE in quantities greater than the TANNING DEVICE manufacturer's maximum recommended exposure time for the user.
- 11.6 The OPERATOR shall control the temperature of the consumer contact surfaces of a TANNING DEVICE and the surrounding area so that it will not exceed 100 degrees Fahrenheit.
- 11.7 The TANNING DEVICES shall be maintained in good repair.
- 11.8 Defective or burned-out lamps or filters shall be replaced with a type intended for use in that device as specified on the device label, or with lamps or filters that are "equivalent" under the United States Food and Drug Administration (FDA) regulations and policies applicable at the time of lamp manufacture. The OPERATOR shall maintain lamp manufacturer's user instruction labeling at the facility, demonstrating the equivalence of any replacement lamps, if applicable.

12.0 PROTECTIVE EYEWEAR

- 12.1 Each user shall be provided with protective eyewear and instructions for their use. The OPERATOR shall not allow a person to use a Tanning Device without protective eyewear.
- 12.2 Protective eyewear shall meet the requirements of 21 CFR, Part 801 1040, § 1040.20(c)(4).

13.0 PROHIBITION OF MINORS

- 13.1 It shall be unlawful for any OPERATOR to allow a person younger than 18 years of age to use a TANNING DEVICE unless:
 - 13.1.1 The person's parent or legal guardian provides the OPERATOR a written informed consent statement signed and dated stating that the parent or legal guardian has read and understood the warnings given by the TANNING FACILITY, and the DEPARTMENT and consents to the

minor's use of a TANNING DEVICE, and agrees that the minor will use protective eyewear.

13.1.2 The written consent form shall contain the number of tanning sessions within the next twelve months from the dated signature that the parent or legal guardian authorizes for the minor.

13.2 The prohibition in 13.1 does not prohibit an OPERATOR from allowing the use of TANNING DEVICES to persons under the age of 18 years if a medical practitioner, licensed in the State of Utah, prescribes such use in writing.

14.0 SANITATION

14.1 The TANNING FACILITY shall be kept clean and sanitary at all times.

14.1.1 The OPERATOR shall clean and properly sanitize any reusable protective eyewear before each use with a sanitizer approved by the DEPARTMENT.

14.1.2 The OPERATOR shall clean and properly sanitize the body contact surfaces of a TANNING DEVICE after use with a sanitizer approved by the DEPARTMENT.

14.2 The TANNING FACILITY shall provide the customers access to toilet and hand washing facilities with hot and cold running water. Restroom facilities shall be maintained in a clean and sanitary condition.

15.0 ENFORCEMENT

15.1 TANNING FACILITIES that operate without a permit from the DEPARTMENT or operate in violation of these regulations are subject to legal actions and sanctions as provided by this regulation or as provided by law.

15.2 A representative of the DEPARTMENT shall properly identify him or herself before entering a facility to make an inspection.

15.2.1 It is unlawful for any person to interfere with the DEPARTMENT agent in the performance of his or her duties.

- 15.2.2 A copy of the inspection report must be furnished to the OPERATOR, with the DEPARTMENT retaining possession of the original.
- 15.3 If, after investigation the DEPARTMENT finds that a TANNING FACILITY is in violation of this regulation, the DEPARTMENT shall advise the permittee or OPERATOR, in writing, of its findings and instruct the OPERATOR to take specific steps to correct such violations within a reasonable period of time, not to exceed 30 days.
- 15.4 If the DEPARTMENT has reasonable cause to suspect that a communicable disease is, or may be transmitted by unsafe practices within the TANNING FACILITY, or the OPERATOR is using unapproved or malfunctioning equipment, the DEPARTMENT may do any or all of the following:
 - 15.4.1 Issue an order excluding any or all OPERATORS or employees from the TANNING FACILITY who are responsible, or reasonably appear responsible, for the transmission of a communicable disease.
 - 15.4.2 Issue an order to immediately suspend the permit until the DEPARTMENT determines there is no further risk to the public health. Such an order shall state the cause for the action.
 - 15.4.3 Post the TANNING FACILITY "CLOSED" with signs approved and posted by the DEPARTMENT on all entrances to the TANNING FACILITY.

16.0 PENALTY

- 16.1 Any person who is found guilty of violating the provisions of these regulations is guilty of a class B misdemeanor pursuant to Section 26A-1-123, Utah Code Annotated. A person found guilty of a subsequent similar violation within two years, is guilty of a class A misdemeanor pursuant to Section 26A-1-123, Utah Code Annotated.
- 16.2 Each day such violation is committed or permitted to continue shall constitute a separate violation.

17.0 SEVERABILITY

- 17.1 In the event any court of competent jurisdiction should declare any particular clause or sentence of this regulation invalid or unconstitutional, the remaining portions shall remain in full force and effect. Toward that end, the provisions of these regulations are declared to be severable.

IN WITNESS WHEREOF, the Davis County Board of Health has passed, approved and adopted this regulation this 14th day of February, 2006

ATTEST:

DAVIS COUNTY BOARD OF HEALTH

Lewis R. Garrett M.P.H
Director of Health

Ron Garrison
Chairperson